

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

D.W., through her parents Johnny
and Beverly,

Plaintiff,
v.

MILWAUKEE PUBLIC SCHOOLS,
Defendant.

Case No. 10-CV-1113-JPS

ORDER

Johnny and Beverly, proceeding *pro se*, on behalf of their minor daughter, brought this action under § 1415(i)(2)(A) of the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400 *et seq.*, seeking judicial review of a decision of a Wisconsin administrative law judge. On April 11, 2012, this court granted summary judgment in favor of the defendant, Milwaukee Public Schools, as to each of the plaintiffs’ claims. The court based its decision entirely on the administrative record. On April 23, 2012, plaintiffs filed a motion to set aside judgment and a motion for sanctions, stating that they had not received copies of two of the defendant’s briefs – the defendant’s brief in opposition to plaintiffs’ motion to consider new evidence and the defendant’s brief in opposition to plaintiffs’ brief in support of the due process appeal. Plaintiffs assert that they had no opportunity to review or respond to defendant’s briefs before the court issued its orders on those matters. Accordingly, while the court denied the motion for sanctions, it also afforded the plaintiffs an additional twenty days to review the defendant’s briefs and to file a response to those briefs, before the court formally ruled on the motion to set aside judgment.

On July 20, 2012, in response to the court's order, plaintiffs filed another motion to set aside judgment (Docket #36) and a motion to supplement the administrative record (Docket #37). After a review of the plaintiffs' response – in the form of these two motions – the court finds that the plaintiffs have not provided the court with any new information that would oblige the court to vacate its earlier ruling granting summary judgment in favor of the defendant and dismissing the action. As to the motion to supplement the administrative record, though the plaintiffs have provided a more comprehensive explanation for why they believe the supplemental evidence is probative of the issues before the court, they have still failed to explain why the evidence was not presented at the administrative level. Absent some reasonable explanation in this respect, the court declines to supplement the administrative record, especially at this stage in the proceedings.

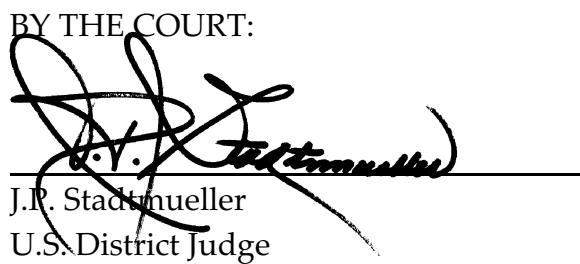
Accordingly,

IT IS ORDERED that the plaintiffs' motion to set aside judgment (Docket #'s 26 and 36) be and the same are hereby **DENIED**; and

IT IS FURTHER ORDERED that the plaintiffs' motion to supplement the administrative record (Docket #37) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 8th day of August, 2012.

BY THE COURT:



J.R. Stadtmueller
U.S. District Judge